

Israelis May Lose Immunity

U.S. Weighs Revoking Pollard Case Accord If Deception Is Found

By Joe Pichirallo
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Justice Department officials, concerned that Israeli officials implicated in the Jonathan Jay Pollard spy case may have misled them, are considering revoking the immunity from prosecution granted before the Israelis were interviewed last December, according to sources familiar with the investigation.

U.S. officials gave immunity to Rafael Eitan, the Israeli official who prosecutors have said directed the Pollard spy network, and to other Israelis in return for assurances that they would cooperate fully with the American inquiry.

If Justice Department officials now conclude that Eitan—a legendary Israeli intelligence figure and former counterterrorism adviser to two Israeli prime ministers— withheld crucial details about the case, his immunity could be nullified and he could be charged with espionage, informed sources said.

Any espionage charges, however, would more likely serve as a formal protest of what U.S. law enforcement officials regard as the failure of the government of Prime Minister Shimon Peres to cooperate fully with U.S. authorities in the Pollard investigation.

Under the U.S. extradition treaty with Israel, the U.S. government would not be able to extradite any Israelis charged with espionage, legal experts said yesterday. Israeli law also would block such an attempt, the experts added.

But criminal charges against Eitan or other Israelis would effectively bar them from entering the United States because if they did so they could be arrested, U.S. officials said.

"In effect, [a criminal charge] is an exclusion order," said one U.S. official familiar with the Pollard case. "That's the ultimate sanction."

The Justice Department is also examining whether charges should be filed against Aviem (Avi) Sella, an Israeli Air Force brigadier general identified by prosecutors as Pollard's initial contact in the spy operation, officials said.

None of the Israelis interviewed told U.S. investigators about Sella or of the arrangement to deposit \$300,000 in a Swiss bank for Pollard over a 10-year period—details that were learned only after Pollard began cooperating, sources said. U.S. officials said a key question is whether the Peres government knew these details. If the government had the information, U.S. investigators want to know why it was withheld and why no disciplinary action was taken against Eitan and Sella.

"You just don't turn around and promote Rafi Eitan and Sella," said one official, who noted that Eitan was recently appointed chairman of the board of a state-owned chemical company and that Sella was promoted from colonel to brigadier general.

Justice officials' examination of possible immunity violations comes while there is a continuing debate within the U.S. government over the handling of the Pollard case by the Peres government, which is anxious to put the matter to rest.

The State Department on Monday praised Israeli cooperation and assurances that "no espionage activities are being carried out" against the United States, praise that reportedly pleased the Israeli government. Yesterday, White House spokesman Larry Speakes said, "We stand exactly by what the State Department said . . ."

Other U.S. officials, however, said the question of whether there is additional Israeli spying is secondary to two more pressing questions about the Pollard case: Whether the operation was indeed a "renegade" activity that lacked official government authorization, and whether the Peres government has lived up to its promise to conduct a thorough internal investigation.

One knowledgeable U.S. official pointed to FBI Director William H. Webster's statement last week that

Israel has given only "selective cooperation" in the Pollard case. "I think he is just telling it like it is," the official said.

"There were statements from the Peres government last November or December in which they said they would conduct an internal investigation and let the 'chips fall where they may.' I have seen no indication they have done that," the official said.

Sen. David F. Durenberger (R-Minn.), chairman of the Senate Select Committee on Intelligence, told reporters yesterday that more information is needed before the United States can accept Israeli statements about the case.

"I don't know that it was a renegade operation and I don't know that it was a unique kind of operation . . . we need more information," said Durenberger whose committee has been briefed twice by Justice Department officials. "In other words, we're not taking people's word for the fact there's nothing going on. The [Justice] investigation, which began last year, is continuing."

Besides Eitan, sources said, other Israelis interviewed by U.S. investigators were Joseph (Yossi) Yagur, a former Israeli science consul based in New York who is alleged to have been a handler of Pollard, and Irit Erb, a former secretary at the Israeli Embassy here who allegedly received classified U.S. documents from Pollard, who last week pleaded guilty to participating in an espionage conspiracy.

U.S. officials said that immunity was extended to the Israelis, who were represented by private attorneys, because otherwise they would not provide potentially incriminating information. The agreements were conditional, however, on the witnesses' complete and truthful cooperation.

Staff writers Patrick E. Tyler and John M. Goshko contributed to this report.